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ZONING BOARD OF APPEALS

TOWN HOUSE  
ANNEX  
337 ROUTE 202  
SOMERS, NY 10589

*Town of Somers*

WESTCHESTER COUNTY, N.Y.



Victor Cannistra,  
Chairman  
Ronald Carpaneto  
Arnold Guyot  
Bill Harden  
Dennis McNamara  
Bruce Prince  
Umberto Santaroni

**Meeting Minutes**  
September 16, 2014

The members present were: Chairman Cannistra, Mr. Carpaneto, Mr. Guyot, Mr. Harden, Mr. McNamara, and Mr. Santaroni.

Building Inspector Efreem Citarella was also present, as well as the applicants and interested residents.

Chairman Cannistra opened the meeting at 7:30 p.m. with the Pledge of Allegiance.

New member Bill Harden was welcomed.

**APPLICANTS:**

**T-MOBILE NORTHEAST LLC – BZ06/14 – 16.15-1-1.1**

A 90 day extension of time to submit the engineering site inspection report for a Special Exception Use Permit renewal of a cell tower that was granted on May 20, 2014, located in an R-120 Residential Zoning District at **87 Route 202, Somers**. The property is shown on the Town Tax Map as **Section: 16.15, Block: 1, Lot: 1.1**. RE: Section Schedule 170-129.6 (G).

Robert Gaudioso of Snyder & Snyder, LLP indicated that although the engineering site inspection report has been received, he would still like to request a 90 day extension to complete the paperwork. All members were given a copy of the report. There have been no safety issues, and each carrier is required to have an inspection every three years.

Mr. Carpaneto made a motion for a Type II Action. Mr. Santaroni seconded the motion.

A vote was then taken by the Board as follows...

**POLL OF THE BOARD**

Mr. Carpaneto	Aye
Mr. Guyot	Aye
Mr. Harden	Aye
Mr. McNamara	Aye
Mr. Santaroni	Aye
Chairman Cannistra	Aye

All were in favor.

Mr. McNamara made a motion to grant the 90 day extension to complete the paperwork as related to the engineering inspection report. Mr. Santaroni seconded the motion.

A vote was then taken by the Board as follows...

**POLL OF THE BOARD**

Mr. Carpaneto	Aye
Mr. Guyot	Aye
Mr. Harden	Aye
Mr. McNamara	Aye
Mr. Santaroni	Aye
Chairman Cannistra	Aye

All were in favor.

**PAUL R. IACUONE, LLC – BZ11/14 – 4.20-1-5**

An application for a Use Variance to permit a drive-through restaurant, located in a Neighborhood Shopping District at **63 Route 6, Baldwin Place**. The property is shown on the Town Tax Map as **Section: 4.20, Block: 1, Lot: 5**. RE: Section Schedule 170-21.2.

Robert Gaudioso of Snyder & Snyder, LLP addressed the Board and gave a history of the property, as well as the criteria for the Use Variance. The property is about an acre, and is in the Neighborhood Shopping District, which is a very small zoning district. The building is approximately 3,000 square feet and has a state of the art industrial kitchen.

The timeline is as follows:

In 1998, Mr. Iacuone bought 50% of the business for \$120,000.

In 1993, the area was rezoned from General Business, which allowed for a fast food restaurant.

In 1996, Mr. Iacuone purchased the remaining 50% of the business for \$335,000. Less than a month later, the area was rezoned again to Community Shopping (the shopping center) and Neighborhood Shopping.

In 2001, Mr. Iacuone became ill and leased the restaurant. The first two businesses failed and that trend unfortunately continued until present day. The most recent restaurant that occupied the space was the Greek American Grill. An article from the August 2012 on-line Somers Daily Voice entitled "Greek Grill Hopes to Break Route 6 Jinx in Somers" was shared.

Since 2001, \$180,000 was spent renovating the building. The current yearly expenses are \$11,700 and the building has been vacant for two years.

Fast food, as well as drive through restaurants has expressed an interest in renting the building, but the zoning doesn't allow it.

In Mr. Gaudio's opinion, Mr. Iacuone does meet the criteria for a Use Variance since:

The owner cannot obtain a reasonable return on his investment.

The hardship is not unique to the property.

The character of the neighborhood will not change.

The alleged hardship has not been self-created.

If this Use Variance is approved, the applicant will have to go through the Planning Board and Architectural Review Board process. It was confirmed that fast foods with a drive through have been interested.

Mr. Iacuone approached the podium and indicated that he has been in ongoing discussions with Chesire Coffee Co. in Connecticut regarding renting this property, but they must be able to have a drive through.

The Chairman asked why consideration wasn't given to going directly to the Town Board to request a Use Variance. Mr. Gaudio responded that there are three reasons why it was not done: a Use Variance legally required by the Town is a fundamental right of the property owner; spot zoning could be assigned; and that exact process took place for a proposed project on the golf range property, which resulted in a negative decision, and was also quite costly.

Mr. Iacuone is marketing to all types of business, with almost no interest. It would also be costly to remove the existing kitchen.

Selling the property is not an option as it would be done so at a loss since the property is undervalued.

The Chairman would like to do a site visit, as well as consult with the Town Attorney. Therefore the item is carried over until the October 21, 2014 meeting.

**OTHER BUSINESS:**

A motion was made by the Chairman to approve the minutes of the July 15, 2014 monthly meeting. All were in favor, but Mr. Harden as he was not present.

The next monthly meeting of the Zoning Board of Appeals is scheduled to be held on October 21, 2014. There being no further business, the meeting was adjourned at 8:25 p.m.

Respectfully submitted,

Denise Schirmer, Secretary  
Zoning Board of Appeals

cc: Town Board  
Town Clerk  
Planning and Engineering  
Planning Board